

## REMARKS

### Prior Art Rejections

#### U.S. Patent 5,358,213

Claims 21, 25, 26, and 40 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,358,213 to Pilolla (hereinafter "Pilolla '213"). Pilolla '213 relates to a Faucet Having Automatic and Manual Control Capability.

##### 1. Claim 21

Amended claim 21 requires and Pilolla '213 fails to disclose two valves with solenoids controlled by a single lever. Furthermore, such a limitation is not obvious in view of Pilolla '213. Therefore, claim 21 is not anticipated by Pilolla '213. Removal of the rejection is respectfully requested.

##### 2. Claim 25

Claim 25 depends from claim 21. Because claim 21 is believed to be allowable, claim 25 is also believed to be allowable with respect to Pilolla '213.

##### 3. Claim 26

Claim 26 requires and Pilolla '213 fails to disclose "the solenoid being positioned between the manifold and the lever." The faucet body 10 of Pilolla '213 includes a base/housing section 12, middle/spout section 40, and top section 60. Supply conduits 32 are located in housing section 12. Spout 42 is located in the spout section 40. Solenoid 140 is positioned within cavity 45 of spout section 40. Therefore, the solenoid 140 is within the manifold and not between the manifold and the lever. As such, claim 26 is not anticipated by Pilolla '213. Removal of the rejection is respectfully requested.

##### 4. Claim 40

Claim 40, like claim 21, requires two valves with solenoids controlled by a single lever. For the reasons set forth above regarding claim 21, claim 40 is not anticipated by Pilolla '213.

#### U.S. Patent No. 5,595,216

Claims 21, 27, and 40 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,595,216 to Pilolla (hereinafter "Pilolla '216"). Pilolla '216 describes a sink arrangement with faucet having dual operational mode similar to that described in Pilolla '213.

1. Claim 21

Amended claim 21 requires and Pilolla '216 fails to disclose two solenoids controlled by a single lever. Furthermore, such a limitation is not obvious in view of Pilolla '216. As such, claim 21 is not anticipated by Pilolla '216. Removal of the rejection is respectfully requested.

2. Claim 27

Claim 27 depends from claim 21. Because claim 21 is believed to be allowable, claim 27 is also believed to be allowable with respect to Pilolla '216.

3. Claim 40

Claim 40, like claim 21, requires two solenoids controlled by a single lever. For the reasons set forth above regarding claim 21, claim 40 is not anticipated by Pilolla '216.

Pilolla '213, Pilolla '216, and U.S. Patent No. 5,487,493

Claims 22-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Pilolla '213 or Pilolla '216 in view of U.S. Patent No. 5,487,493 to McNabb (hereinafter "McNabb"). McNabb teaches a Frozen Beverage Dispensing Apparatus including a valve 14. Valve 14 includes a valve body 16, a dispensing faucet 18, and lever member 20. Lever member 20 is provided for operating valve 14. A securing device 22 is provided for securing lever member 20 in response to a predetermined condition. When the apparatus is in a defrost cycle, a beverage therein will be in a more liquid state and will be dispensed with greater force than when the beverage is more frozen. Therefore, the securing device 22 engages the lever member 20 when the apparatus is in defrost cycle to prevent the lever member 20 from moving so as to open the valve 14.

1. Claim 22

McNabb is not properly combinable with either Pilolla '213 or Pilolla '216. The securing device 22 of McNabb is provided to prevent the opening of the valve 14. Attaching a securing device to the lever of either Pilolla reference will not result in preventing the opening of the valve. By virtue of the lost motion connection between the levers (182, 160) and the armature 156/valve member 100, locking the position of the levers (182,160) will not lock the valve in the closed position. Therefore, one attempting to lock the position of the valve would not apply the securing device 22 of McNabb. Because the combination results in a non-working

device there would be no motivation to combine the two references as described. The proposed combination is a product of impermissible hindsight and an attempt to find the claimed elements and place them together without motivation to do so. Therefore, claim 22 is believed to be allowable. Removal of the rejection is respectfully requested.

2. Claims 23-24

Claims 23-24 depend from claim 22. Because claim 22 is believed to be allowable, claims 23-24 are also believed to be allowable with respect to the proposed combination.

### Final Remarks

The Applicant believes this application is in condition for allowance in its present form and respectfully requests that the Examiner so find and issue a Notice of Allowance in due course. The Examiner is asked to call the Applicant's attorney, Ryan C. Barker, at (317) 684-5295 to address any outstanding issues to further expedite the prosecution of this application for all parties.

If necessary, the Applicant requests that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. The Applicant requests that any required fees needed beyond those submitted with this Response be charged to the account of Bose McKinney & Evans, Deposit Account Number 02-3223.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP



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